

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

United States of America

v.

Cr. No. 1:11-0006-01-JL

Brian Mahoney

**UNITED STATES' ASSENTED-TO MOTION FOR A 7 DAY *FUTHER EXTENSION* OF
TIME TO RESPOND TO DEFENDANT'S MOTIONS (Documents #180, #181 & #182)**

NOW COMES the United States of America, by and through John P. Kacavas, United States Attorney for the District of New Hampshire, and Arnold H. Huftalen, Assistant United States Attorney, and hereby requests that the Honorable Court grant it a further seven (7) day extension of time to February 18, 2014, to respond to the defendant's Motion for Evidentiary Hearing (Document #180), Motion for Discharge (Document #181), and Motion for Services Other than Counsel (Document #182), for the following reasons:

Having found the defendant to be not competent and not restorable, this Court committed the defendant to the custody of the Bureau of Prisons (BOP) and he is being held at a BOP medical facility in the District of Massachusetts;

The First Circuit has affirmed each of those two Orders issued by this Court;

The U.S. Attorney's Office for the District of Massachusetts has initiated a civil commitment proceeding, based upon the filing of a Certificate of Dangerousness by the Bureau Of Prisons and that civil proceeding is now pending before Chief Judge Saris in the District of Massachusetts;

In much the same way as he conducted himself in this Court, the defendant has engaged in conduct resulting in him now being represented by his third attorney in that proceeding;

On November 22, 2013, the defendant had to be removed from the Courtroom in that civil

proceeding because of his violent outbursts and behavior; See Ex. #1 (Docket #177-1) to government's previously filed Objection to Pro Se Motion to Be Discharged;

A status conference was held in that civil matter before Judge Saris on January 17, 2013, with counsel present for the government and the defendant, and a further status conference is scheduled for February 25, 2014, at which, it is anticipated, a date for a final Dangerousness Hearing will be set;

The undersigned has consulted with the Bureau of Prisons, Office of General Counsel, and the U.S. Attorney's Office for the District of Massachusetts, and it appears that there are sound reasons for this Court to deny the relief requested in each of the defendant's three pending Motions;

But it also appears that all three motions would be moot if the underlying criminal charges were dismissed without prejudice, allowing one forum, the District of Massachusetts in the civil commitment proceeding, to singularly address the legal and factual issues relating to the defendant's mental illness and his possible continued confinement and treatment at a Bureau of Prisons facility;

The United States Attorney's Office for the District of New Hampshire is in the process of determining whether the pending criminal charges should be dismissed or whether the issues raised by the defendant's three motions should be litigated;

However, that decision cannot be made without further deliberation and consultation;

Consequently, the government respectfully requests and additional seven (7) days from this date to either move to dismiss without prejudice the pending criminal matter or to litigate the issues raised in the pending motions.

The defendant, through counsel, Andrew Schulman, assents to the relief sought in this

Motion. Additionally, it appears that no prejudice will result to defendant if this additional extension is granted.

WHEREFORE, the United States, with the assent of the defendant through defense counsel, respectfully requests that the Court grant it a seven (7) day further extension, to February 18, 2014, to respond to the defendant's Motions.

February 11, 2014

/s/ Arnold H. Huftalen
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CERTIFICATE OF CONCURRENCE & SERVICE

I, Arnold H. Huftalen, hereby certify that counsel for the defendant, Andrew Schulman, assents to the granting of this Motion and that a copy of the Motion is being served upon Attorney Schulman via ECF filing.

/s/ Arnold H. Huftalen
Arnold H. Huftalen
Assistant U.S. Attorney